

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: ) PACA Docket No. D-02-0016  
)  
Bruno's Produce Food, Inc. )  
)  
)  
) Decision Without Hearing  
Respondent ) by Reason of Default

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agriculture Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) (hereinafter referred to as the "Act"), instituted by a complaint filed on March 29, 2002, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The complaint alleges that during the period February 2001 through May 2001, Respondent Bruno's Produce Food, Inc. (hereinafter "Respondent") failed to make full payment promptly to 19 sellers of the agreed purchase prices in the total amount of \$812,184.68 for 101 lots of perishable agricultural commodities which it purchased, received and accepted in interstate commerce.

As described in Complainant's Motion for Decision Without Hearing by Reason of Default, service was effected upon Respondent on May 7, 2002. The time for filing an answer expired on May 27, 2002, and upon motion of the Complainant for the issuance of a Default Order, the following Decision and Order shall be issued without further procedure pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

### Findings of Fact

1. Bruno's Produce Food, Inc., is a corporation organized and existing under the laws of the State of Nevada. Its business mailing addresses are 4425 East Sahara #42, Las Vegas, Nevada 89104-6359; and 3959 Patrick Lane, Las Vegas, Nevada 89120-6219.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 010169 was issued to Respondent on October 25, 2000. This license terminated on October 25, 2001 pursuant to Section 4(a) of the PACA (7 U.S.C. § 499(a)), when Respondent failed to pay the required annual renewal fee.

3. The Secretary has jurisdiction over Respondent and the subject matter involved herein.

4. During the period from February, 2001 through May, 2001, Respondent purchased, received, and accepted in interstate commerce, from 19 sellers, 101 lots of fruits and vegetables, all being perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices, in the total amount of \$812,184.68.

### Conclusions

Respondent's failure to make full payment promptly with respect to the transactions set forth in Finding of Fact No. 4 above, constitutes willful, repeated and flagrant violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), for which the Order below is issued.

Order

A finding is made that the Respondent has committed willful, flagrant and repeated violations of Section 2 of the Act (7 U.S.C. 499b), and the facts and circumstances of the violations shall be published.

This order shall take effect on the 11<sup>th</sup> day after this Decision becomes final.

Pursuant to the Rules of Practice, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Secretary by a party to the proceeding within 30 days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. 1.139 and 1.145).

Copies hereof shall be served upon parties.

Done at Washington, D.C.

this 1 day of November, 2002. *YSC*

*Julia A. Clift*  
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Administrative Law Judge